

FIRST DIVISION

[G.R. No. 175989, February 04, 2008]

**GOVERNMENT SERVICE INSURANCE SYSTEM, Petitioner, vs.
MARIANO A. NOCOM, Respondent.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on *certiorari* seeking to reverse the Decision^[1] of the Court of Appeals (Eleventh Division) promulgated on October 2, 2006 in CA-G.R. SP No. 87698.

The instant case is inextricably linked with two earlier consolidated cases filed with this Court - G.R. No. 137448 (*GSIS v. Bengson Commercial Buildings, Inc.*) and G.R. No. 141454 (*GSIS v. Court of Appeals*). Both were decided by the Court *en banc* on January 31, 2002.^[2] Accordingly, we adopt the factual findings in these cases.

Bengson Commercial Buildings, Inc. (BENGSON) obtained loans from the Government Service Insurance System (GSIS), herein petitioner, on August 20, 1965 and November 23, 1971 in the amounts of P1.25 million and P3 million, respectively, or in the aggregate sum of P4.25 million. As security for the payment of these loans, BENGSON executed real estate and chattel mortgages in favor of the GSIS. For BENGSON's failure to settle its arrearages despite due notices, the mortgages were extrajudicially foreclosed. Its properties then were sold at public auction to the highest bidder, the GSIS itself. A certificate of sale and new certificates of title were thereafter issued in its name.

On June 23, 1977, BENGSON filed with the then Court of First Instance of San Fernando, La Union an action for annulment of the auction sale, docketed as Civil Case No. 2794. Later on, the case was transferred to the Regional Trial Court (RTC), Branch 20, also in San Fernando, La Union. After hearing, it rendered a Decision (1) nullifying the auction sale of BENGSON's mortgaged properties; (2) ordering the cancellation of the titles issued to the GSIS and the issuance of new ones in the name of BENGSON; (3) ordering BENGSON to pay the GSIS P900,000 for the debenture bonds; and (4) ordering GSIS to (a) restore to BENGSON full possession of the foreclosed properties; (b) restructure the P4.25 million loans with legal rate of interest from the finality of the judgment; (c) pay BENGSON P1.9 million representing accrued monthly rentals and P20,000 monthly rental until the properties are restored to BENGSON's possession, and (d) pay the costs of the suit.

On appeal, docketed as CA-G.R. CV No. 09361, the Court of Appeals rendered its Decision affirming the RTC judgment with modification. The appellate court ordered the remand of the case to the trial court for reception of evidence to determine the costs of suit. On February 10, 1988, the Decision of the Court of Appeals became

final and executory.

On April 6, 1995, the trial court issued an Order awarding BENGSON P31 million as costs of suit. While Atty. Rogelio Terrado, counsel for GSIS, received a copy of the Order on the same date, however, he did not file a motion for reconsideration. It turned out that he was absent without official leave since April 6, 1995. Hence, the Order became final and executory. Eventually, BENGSON's *ex parte* motion for the issuance of a writ of execution was granted by the trial court.

On May 4, 1995, the GSIS received a copy of the Order of execution. Hence, on May 15, 1995, the GSIS, through its corporate counsel, Atty. Oscar Garcia, filed with the trial court an urgent *omnibus* motion. Attached thereto was an affidavit of merit executed by Margarito C. Recto, manager of the GSIS Legal Services Group, praying that the motion should be considered as a petition for relief from the April 6, 1995 Order and that Atty. Terrado's gross negligence should not bind the GSIS, for to do so would result in the deprivation of its properties without due process.

On January 16, 1997, the trial court issued an Order denying the GSIS's urgent *omnibus* motion on the ground, among others, that the questioned Order of April 6, 1995 has attained finality. The GSIS received a copy of the Order on February 4, 1997.

On February 16, 1997, the GSIS filed a motion for reconsideration but the trial court denied the same, prompting the GSIS to file, on June 11, 1998, a petition for *certiorari* with the Court of Appeals, docketed as CA-G.R. SP No. 47669.

However, on November 24, 1998, the Court of Appeals dismissed the petition for the following reasons: (1) the petition was filed out of time; (2) the Verification and Certification of Non-Forum Shopping were not signed by an authorized officer of the GSIS; (3) no copy of the questioned writ of execution dated April 24, 1995 was attached to the petition; (4) the copy of the Order dated January 16, 1997 is not a certified true copy; (5) petitioner did not rebut BENGSON's evidence; and (6) the assailed Order of April 6, 1995 has become final and executory.

The GSIS filed a motion for reconsideration, but this was denied by the Court of Appeals in a Resolution dated January 29, 1999. The GSIS then filed a petition for review on *certiorari* with the Supreme Court, docketed as G.R. No. 137448.

Meanwhile, on December 16, 1998, the trial court issued an Order directing the issuance of an *alias* writ of execution for the satisfaction of the award of P31 million representing the costs of suit awarded to BENGSON in its Order of April 6, 1995. The sheriff then garnished the 6.2 million Class "A" shares of stock of San Miguel Corporation owned by the GSIS. They were sold at public auction, with BENGSON as the sole bidder.

The GSIS filed a motion for reconsideration with motion to quash the *alias* writ of execution, but this was denied by the trial court on January 8, 1999. Hence, the GSIS filed with the Supreme Court a petition for *certiorari* docketed as G.R. No. 136874, seeking to annul both the December 16, 1998 and January 8, 1999 Orders of the trial court directing the execution of its April 6, 1995 Order and the issuance of the corresponding writ of execution.

On January 21, 1999, this Court issued a Temporary Restraining Order (TRO) enjoining the implementation of the April 6, 1995 Order (directing the transfer, registration, or issuance of new certificates of stock in the name of BENGSON). Thereafter, this Court referred the petition for *certiorari* in G.R. No. 136874 to the Court of Appeals for adjudication. It was then re-docketed as CA-G.R. SP No. 51131.

In its Decision on January 14, 2000, the trial court dismissed the petition of the GSIS in CA-G.R. SP No. 51131. Consequently, the GSIS filed with this Court a petition for *certiorari* with very urgent motion for the issuance of preliminary injunction and/or TRO, docketed as G.R. No. 141454. Forthwith, this case was consolidated with G.R. No. 137448.

On January 31, 2002, the Supreme Court rendered a Decision in G.R. Nos. 137448 and 141454, granting the petitions. This Court held:

Similarly, in the higher interest of justice and equity, and the ground for relief from the 6 April 1995 Order of the trial court being evident, we shall reverse and set aside the 24 November 1998 and 8 January 1999 Resolutions of the Court of Appeals, as well as the 16 January 1997 Decision and 23 April 1998 Order of the trial court. We shall then remand the case to the trial court, and pursuant to Section 6 of Rule 38 of the 1997 Rules of Civil Procedure the case shall stand **as if the 6 April 1995 Order has never been issued**. Thereafter, the court shall proceed to hear and determine the case as if a timely motion for a new trial or reconsideration has been granted by it.

The dispositive portion of the decision reads:

WHEREFORE, the petitions at bar are GRANTED. The Resolutions of the Court of Appeals dated 24 November 1998, 8 January 1999, and 14 January 2000, as well as the 16 January 1997 and 23 April 1998 Orders of the Regional Trial Court, Branch 26, San Fernando, La Union, are hereby REVERSED and SET ASIDE. The cases are hereby ordered remanded to the trial court, which shall then proceed to hear and determine the case as if a timely motion for a new trial or reconsideration has been granted by it. Since the issues raised in CA-G.R. SP No. 51131 are irretrievably linked with, or are but a consequence of the 6 April 1995 Order of the trial court, the said case shall be suspended or held in abeyance until after the aforementioned proceedings in the trial court shall have been finally resolved. The Temporary Restraining Order we issued on 7 February 2000 shall remain in effect until further orders from this court.

SO ORDERED.

The records were eventually remanded to the trial court for hearing to determine the merits of the case.

On March 19, 2004, in the course of the proceedings, Mariano A. Nocom, respondent herein, filed a motion for intervention. Attached thereto is his Complaint-in-Intervention.

The GSIS filed its opposition, but in an Order dated June 14, 2004, the trial court